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Michael E. Kozikowski  
New Castle Recorder EASEME

Tax Parcel No. 16-004.00-677

Prepared By / Return To:  
Edward B. Rosenthal, Esquire  
P.O. Box 1070  
Wilmington, DE 19899-1070

## EASEMENT AGREEMENT

## **EASEMENT AGREEMENT**

**THIS EASEMENT AGREEMENT** (the "Agreement") made and entered into this 12<sup>th</sup> day of December, 2013, by and between the **TRUSTEES OF ARDEN** ("LANDLORD"), **VILLAGE of ARDEN** (through its Forest Committee), their successors and/or assigns (the "Village") and **ROBERT W. WYNN and KENNETH W. WYNN**, individual Arden leaseholders with a mailing address of 2409 Woodland Lane, Wilmington, Delaware 19810, their successors and/or assigns ("TENANT" or "TENANTS")

### **WITNESSETH:**

**WHEREAS**, Tenants are Lessees of that certain tract or parcel of land in New Castle, Delaware, located at 2409 Woodland Lane, Wilmington, Delaware 19810, being lot 77½ on the Major Subdivision Plan of Arden (the "Leasehold"), and as further described on the Boundary Survey plan, dated September 4, 2013, and prepared by Vandemark & Lynch, Inc., and attached hereto as Exhibit A; and

**WHEREAS**, Tenants desire to use real property outside of and adjacent to the Leasehold (as set forth on the attached Exhibit B as "Proposed Easement Access Area", hereinafter the "Easement") for vehicular ingress and egress to/from the garage located on the Leasehold, and in accord with Paragraph 11(c);

**WHEREAS**, Landlord and Village agree to permit such use pursuant to the terms and conditions of this Agreement.

**NOW THEREFORE**, for and in consideration of Tenants' obligations concerning preservation of a certain tree on the Leasehold and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. Property and Use. Village agrees to permit Tenant to use the Easement for ingress and egress to/from the Leasehold. Tenants agree that neither their use of the Easement, nor the use of said Easement by anyone authorized by them shall be interpreted to give right to anyone to limit, interfere, interrupt, or in any manner impact any of Landlord or Village's current or future uses, or any other residential lot set forth on the Major Subdivision Plan of Arden. The sole purpose of this Easement is to provide ingress and egress and may not be used for any other purpose.

2. Term. The term of this Agreement shall commence on the date hereof and shall be perpetual unless both parties herein, or their successors and/or assigns shall agree to terminate this Agreement.

3. Liability. Tenants shall indemnify and hold harmless Landlord and the Village from any and all liability arising out of or in connection with Tenants' or any of Tenants' guests, agents, and/or invitees use of the Easement.

4. Alterations. In no event and under no circumstances shall Tenants make any alterations, additions, repairs or improvements to the Easement without written permission of Village, which permission shall not be unreasonably withheld. Tenants shall maintain the Easement in good condition and at their expense.

5. Entire Agreement. This instrument contains the entire agreement between the parties regarding the terms and conditions of the Agreement of the above described Easement, all other agreements relating to the subject matter of this Agreement are hereby incorporated herein and there are no oral or written conditions, terms, understandings or stipulations pertaining to this Agreement which have not been incorporated herein.

6. Unenforceability. If any provision of this Agreement or the application thereof to any person or circumstances shall for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provisions to the other persons or circumstances shall not be affected thereby but rather shall be enforceable to the fullest extent permitted by law.

7. Governing Law. This Agreement and all of its provisions shall be construed and interpreted in accordance with the laws of the State of Delaware.

8. No Representations by Landlord and Village. Tenants acknowledge and agree with that Tenants are accepting the Easement in an "AS IS" condition "WITH ALL FAULTS" and specifically and expressly without any warranties, representation or guarantees, either express or implied, of any kind, nature, or type whatsoever from or on behalf of Landlord and/or Village.

9. Binding on Successors, Grantees and Assigns. Tenants must disclose this Agreement and provide a copy to any subsequent assignee, grantee or successor. Unless and until terminated, this Agreement shall run with the land and is binding upon all parties' successors, heirs, assigns, and/or representatives.

10. No Waiver. Under no circumstances shall this Agreement be deemed to be a waiver of Landlord's rights concerning the Easement. Under no circumstances shall this Agreement be deemed to be a consent or acquiescence to any change in the parameters of any property, or any other Lease or Lot in Arden, as may be indicated on the Major Subdivision Plan of Arden

11. Oak Tree Preservation. In exchange for the Easement delineated above, Tenants agree that they will take all reasonable efforts not to harm or impair the white oak tree (the "Tree") on the southeast corner of the leasehold (noted on Exhibit A attached hereto), and the land constituting its dripline (defined below as the "Preservation Area"), as follows:

- a. The Preservation Area is defined as the area beneath the branches of the Tree, and above the roots of the Tree, to the full extent of

their reach.

- b. The Preservation Area will not be disturbed by excavation or paving of any depth. Any treatment of the Tree or planting within the Preservation Area must be authorized by the Trustees
- c. Any Vehicular activity in the Preservation Area must be pre-approved in writing by the Trustees, who shall consider the impact on the Tree, and the soil and subsoil of the Preservation Area. Trustees' approval shall not be unreasonably withheld. Parking is not permitted in the Preservation Area.
- d. The Trustees will be entitled to monitor the health of the Tree, with reasonable notice provided to the Tenants.
- e. If the Tree should need to be removed, it will be replaced with another of the same species with the same protection set forth herein as the Tree.

**IN WITNESS WHEREOF**, the parties have hereto set their hands and seals as of the day and year first above written.

**TRUSTEES of ARDEN**

By: Mike Curtis

By: James P. Falco

By: Robert A. Verney

**VILLAGE of ARDEN**

By: Danny McEwen

By: Katrina Steiff

By: Carol Larson

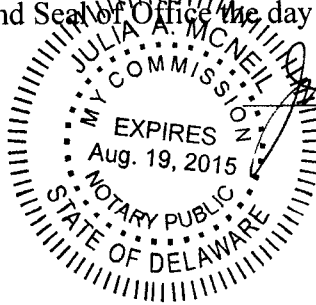
STATE OF DELAWARE     )

)     SS.

NEW CASTLE COUNTY     )

BE IT REMEMBERED, That on this 8<sup>th</sup> day of November, 2013, personally appeared before me, the Subscriber, a Notary Public for the County and State aforesaid, TRUSTEES OF ARDEN, parties to this Instrument of Writing, personally known to me to be such, and duly acknowledged this Instrument of Writing, to be their Acts and Deeds.

GIVEN under my Hand and Seal of Office the day and year aforesaid.



Julia A. McNeil  
NOTARY PUBLIC

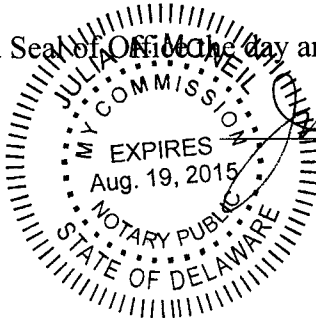
STATE OF DELAWARE     )

)     SS.

NEW CASTLE COUNTY     )

BE IT REMEMBERED, That on this 8<sup>th</sup> day of November, 2013, personally appeared before me, the Subscriber, a Notary Public for the County and State aforesaid, Danny Schweers, Katrina Streiff, and Carol Larson, duly authorized representatives of the VILLAGE OF ARDEN, parties to this Instrument of Writing, personally known to me to be such, and duly acknowledged this Instrument of Writing, to be their Acts and Deeds, and the acts and deeds of the Village of Arden.

GIVEN under my Hand and Seal of Office the day and year aforesaid.



Julia A. McNeil  
NOTARY PUBLIC

STATE OF DELAWARE     )

)     SS.

NEW CASTLE COUNTY     )

BE IT REMEMBERED, That on this \_\_\_\_ day of \_\_\_\_, 2013, personally appeared before me, the Subscriber, a Notary Public for the County and State aforesaid, \_\_\_\_\_, and \_\_\_\_\_ parties to this Instrument of Writing, personally known to me to be such, and duly acknowledged this Instrument of Writing, to be their Acts and Deeds.

GIVEN under my Hand and Seal of Office the day and year aforesaid.

\_\_\_\_\_  
NOTARY PUBLIC

TENANT

Robert W. Wynn

TENANT

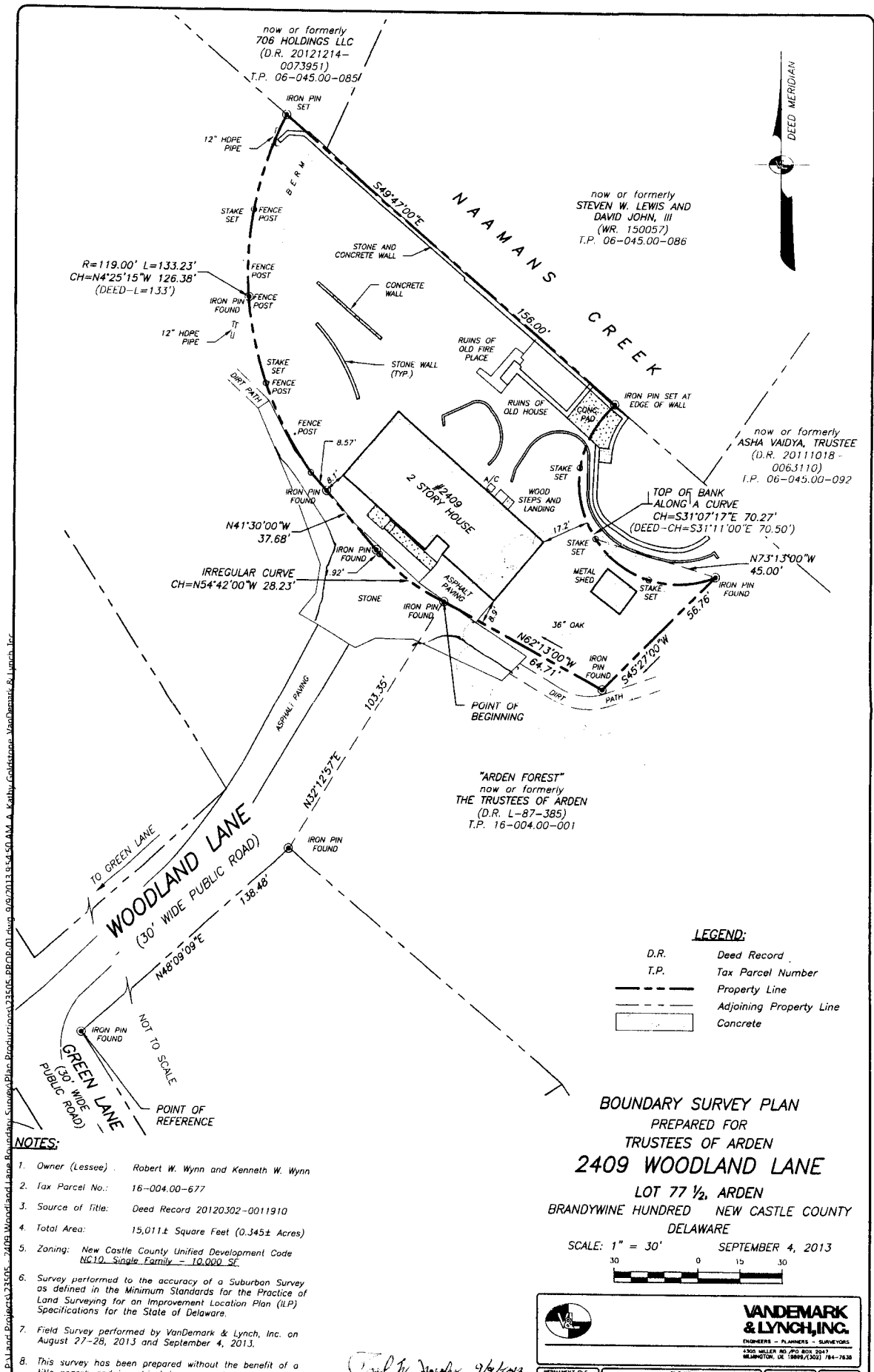
Robert W. Wynn

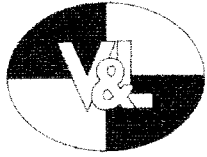
Notary

Linda M del Busto  
Linda m del Busto

11.7.2015

# EXHIBIT A





**VANDEMARK  
& LYNCH, INC.**  
ENGINEERS • PLANNERS • SURVEYORS

23505.01-ESMT-01

4305 MILLER ROAD  
WILMINGTON, DE 19802-1901  
(302) 764-7635 FAX (302) 764-4170  
www.vandemarklynch.com

November 19, 2013

Description of an **Access Easement** through land now or formerly of The Trustees of Arden, Woodland Lane extended near Green Lane, Town of Arden, New Castle County, Delaware (Tax Parcel No. 16-004.00-001)

ALL THAT CERTAIN tract, piece or parcel of land, Woodland Lane extended near Green Lane, Town of Arden, New Castle County, Delaware, and shown on a plan prepared by VanDemark & Lynch, Engineers and Surveyors, Wilmington, Delaware, on File No. 23505-ESMT-01 dated November 19, 2013, titled "Exhibit Plan, Access Easement, prepared for Trustees of Arden, Woodland Lane Extended", and being more particularly described as follows, to wit:

BEGINNING at an interior point within land now or formerly of The Trustees of Arden (Deed Record L, Volume 87, Page 385), said point of Beginning being distant the two (2) following described courses and distances from an iron pin found at the intersection of the southeasterly side of Woodland Lane, a 30 foot wide public road, with the northeasterly side of Green Lane, a 30 foot wide public road:

(Course 1 along the said southeasterly side of Woodland Lane)

1. North 48°09'09" East, 138.48 feet to an iron pin found; and

(Course 2 through the said land now or formerly of The Trustees of Arden)

2. North 32°12'57" East, 86.35 feet to the Point of Beginning;

THENCE, from the said point of Beginning, continuing through the said land now or formerly of The Trustees of Arden, the four (4) following described courses and distances:

1. North 32°12'57" East, 17.00 feet to an iron pin found, an angle point in the southwesterly lease line for land now or formerly of Robert W. Wynn and Kenneth W. Wynn (Deed Record 20120302-0011910);

(Course 2 along the said southwesterly lease line)

2. South 62°13'00" East, 14.00 feet to a point;
3. South 32°12'57" West, 16.00 feet to a point; and
4. North 66°16'00" West, 14.11 feet to the point and place of Beginning.

Containing within said metes and bounds, 230 square feet (0.005 acres) of land, being the same, more or less...

KG

Checked By: \_\_\_\_\_



